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2d Session

SENATE

{ REPORT
101-458

STEWART B. McKINNEY HOMELESS
ASSISTANCE AMENDMENTS OF 1990

R E P O R T

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2886

TO AMEND THE STEWART B. McKINNEY HOMELESS ASSISTANCE
ACT TO CLARIFY REQUIREMENTS REGARDING THE USE OF UN-
UTILIZED, UNDERUTILIZED, SURPLUS, AND EXCESS FEDERAL
BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS,
AND FOR OTHER PURPOSES



September 12 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

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STEWART B. MCKINNEY HOMELESS ASSISTANCE
AMENDMENTS OF 1990

SEPTEMBER 12 (legislative day, SEPTEMBER 10), 1990.—Ordered to be printed

Mr. GLENN, from the Committee on Governmental Affairs,
submitted the following

REPORT

[To accompany S. 2886]

The Committee on Governmental Affairs, to which was referred the bill (S. 2886) to amend the Stewart B. McKinney Homeless Assistance Act to clarify requirements regarding the use of unutilized, underutilized, surplus, and excess Federal buildings and real property to assist the homeless, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

I. PURPOSE

The purpose of this legislation is to authorize two McKinney Act programs—the Title II Interagency Council on the Homeless and the Title III FEMA Emergency Food and Shelter program—and to amend a third, the Title V Surplus Property program. The first two programs expire on September 30, 1990. The third has not been working as Congress intended and so is amended by this bill to improve its efficiency and effectiveness.

II. BACKGROUND

The problem of homelessness had been a growing source of congressional concern through the late 1970s and especially in the early 1980s when a serious recession caused high unemployment and a sharp economic downturn. Many factors combined during this time to cause a considerable increase in the visibility and numbers of chronically homeless people.

The face of homelessness began changing in the 1980s as well. More and more the homeless began to be seen in less traditional, stereotyped terms—no longer just as primarily urban street people, but increasingly as single parent families, runaway adolescents, rural Americans, and even the working poor. This change in the character of homelessness required new, more comprehensive approaches to the homeless problem.

In 1987 Congress passed and the President signed into law the Stewart B. McKinney Homeless Assistance Act, the first, comprehensive federal statute designed to help the homeless. Twenty programs were created ranging from assistance to the mentally ill homeless, direct monetary aid for providers through the emergency Food and Shelter program to housing demonstration programs and a surplus property leasing program. A number of these programs were reauthorized or amended in 1988 under the Stewart B. McKinney Homeless Assistance Act Amendments.

Since 1987, over \$1 billion has been appropriated to fund McKinney Act programs. Fiscal Year 1990 appropriations "fully-funded" some but not all McKinney Act programs. The Administration's FY 1991 budget request calls for \$586 million for McKinney Act programs and seeks funds for the creation of new programs to assist the homeless.

In at least one key area under the Governmental Affairs Committee's jurisdiction, the FEMA Emergency Food and Shelter program, these funds appear to be inadequate. The Committee has heard from many providers around the country who assert that the need for more resources to combat homelessness has become imperative.

III. SECTION-BY-SECTION ANALYSIS OF S. 2886

Section 1—Sets out the short title of the bill as the "Stewart B. McKinney Homeless Assistance Amendments of 1990".

Section 2—Reauthorization of the Interagency Council on the Homeless. This section reauthorizes the Interagency Council on the Homeless for three years at \$1.2 million, \$1.3 million, and \$1.3 million respectively. It also adds the Secretary of Veterans Affairs as a member of the Council.

The Council has been given generally good marks by most providers surveyed by the Committee. Witnesses at our July 19 hearing on S. 2886 noted that its operations had noticeably improved in the last year. GAO was particularly complementary, citing the Council's improved leadership and its generally effective system of regional coordinators. The Committee urges the Council to continue to expand its publicity efforts with respect to the Title V Surplus Property program and expects that the Council will continue to keep the Committee currently and fully informed of its activities.

Section 3—Reauthorization of the Emergency Food and Shelter Program. This section reauthorizes the Emergency Food and Shelter program for three years at \$150 million for each of those three years.

The FEMA EFS program is the largest single McKinney Act program. Support for reauthorization at the level prescribed in S. 2886

was almost universal at our hearing on July 19. In fact, members of the program's national board all wrote to Committee Chairman Glenn urging that even more funding be provided than the proposed \$150 million over three fiscal years. Numerous other providers from around the country communicated this recommendation to the Committee.

Some concern was raised at the hearing about the EFS program formula, eligibility of certain uses for EFS money, and the need for heightened local coordination and planning. The Committee expects that many of these concerns can and will be addressed by FEMA and the National Board.

Section 4—Use of Certain Public Real Property to Assist the Homeless. This section amends the Title V Surplus Property program to improve its efficiency and effectiveness in providing surplus and other real federal property for use as facilities to assist the homeless. Since the section rewrites section 501 of the existing statute, the Committee feels that a detailed background discussion and explanation are in order.

BACKGROUND

When the Surplus Property program was first enacted in 1987 and then amended in 1988, Congress' hope was that federal agencies would review properties under their control with the express purpose of making whatever properties they did not need available for use to assist the homeless. Properties were ultimately separated into four distinct categories:

Unutilized—Property which is not being utilized at all by a federal agency.

Underutilized—Property which is being used only partly by a federal agency or is otherwise not being fully utilized.

Excess property—Property which a federal agency decides is no longer needed by that agency.

Surplus property—Property which no agency of the government needs.

Each federal agency was charged with reporting any of the property under its control which fell into one of the above categories to the Department of Housing and Urban Development, pursuant to regular surveys performed under the Federal Property Act. Agencies were to respond to HUD's requests for this information using checklists already in agency hands specifically for this purpose. HUD was then to make a determination about the suitability of the reported property and advise each agency of its determination. At the same time, HUD was required to publish suitable property in the Federal Register. Within 30 days, each agency head so advised was required to report back to HUD that it would make the property available, declare the property excess or state the reasons why it could not do either. HHS would receive applications for published property and would request assignment from GSA for any surplus property where it approves the application. HHS would then lease the property. Other agencies would lease unutilized or underutilized properties under their control.

The process thus established proved to be extremely confusing to federal agencies. At the time of the filing of a September 1988 law-

suit, only 12 properties had been reviewed by HUD, only two properties had been found suitable and only four properties had been made available. Judge Oliver Gasch, ruling in the case, set out specific deadlines and outlined what he perceived to be congressional intent for running the Title V program (see National Coalition for the Homeless, et al. v. Veterans Administration, et al., December 13, 1988).

Two years after this decision, the Title V program has made progress but continues to be plagued by poor implementation. To date 5545 properties have been determined suitable for uses to assist the homeless—yet only 39 of these properties have been leased or are in the process of being leased for such purposes.

FOUR KEY TITLE V PROBLEMS

In 1989, the Committee began a detailed examination of the Title V program, with an eye toward making changes in it to improve its effectiveness. Meetings were convened with relevant agency officials, interested advocates, and other congressional staff to identify key problems with the process. The result of these discussions was the pinpointing of four key issues directly affecting the operation of the Title V program:

(1) Agencies must treat homeless use as priority.

It is clear that federal agencies with responsibility for disposal of unneeded property are put in a tremendous bind by the competing imperative to sell such property pursuant to the 1949 Property Act and to dispose of it, ultimately by lease, for uses to assist the homeless. On the other hand, applicants for property must have some reasonable assurance that after a lengthy, potentially costly application process they will get the property if their application is approved.

The solution to this problem was not made perfectly clear by congressional direction. As indicated in the Conference Reports of both the original Act and the 1988 amendments, homeless use was to be given priority consideration:

The conferees expect the Secretary of Health and Human Services and the Administrator of General Services to recognize fully the special urgency that attaches to the need for such of these properties and to give priority of consideration to necessary lease-hold-interest disposals.— (House Report 100-174, June 19, 1987)

The conferees wish to emphasize their expectation that the Secretary of Health and Human Services and the Administrator of General Services will recognize fully the special urgency of the need for such properties for use to assist the homeless and give priority of consideration to necessary lease-hold-interest disposals. The conferees urge on all executive branch agencies a similar emphasis in the application of other authority that may enable such properties to be made available for interim use. (House Report 100-1089, October 13, 1988)

However, despite this intent to prioritize homeless uses, it is also clear that the Congress built in some protections in the program to

ensure that screening for other federal and public uses would not be undermined by establishing homeless use as a priority. Again, both the original Conference Report and the report of the amendments in 1988 speak to the Congress' intention that properties be made available only in accordance with other applicable law (including the Federal Property and Administrative Services Act of 1949—40 U.S.C. 483):

The conference requirement (section 501(c)) also requires the Administrator of General Services and the Secretary of Health and Human Services, *acting in accordance with other applicable Federal law* (emphasis added), to take actions necessary to make the properties identified as suitable available . . .

(Report 100-174, June 19, 1987)

and:

Section 501, as amended, does not, of course, provide that every property identified as suitable under subsection (a) must be made available but only provides that such properties be made available *in accordance with other applicable Federal law. To give priority of consideration to the use of property to assist the homeless does not require disregarding consideration of other uses that may serve important Federal and national needs for which other law provides.* (emphasis added)—(Report 100-174, June 19, 1987)

Hence, while congressional intent may not have been clearly expressed for overall policy in the original legislation, it is the clear purpose of this legislation that homeless use be given priority status *but only insofar as other needs (presumably compelling needs) are satisfied first.*

The amendments made in this bill require that homeless use be given explicit priority with respect to leasing and deeding under section 203 of the Federal Property Act. However, the Committee also felt it was extremely important to retain the integrity of the screening process for other "meritorious and compelling" federal and public uses.

2. *Properties should be published only when they are suitable and available and applicants must know about the slight risk they may not get a property even if their application is approved.*

It is critical that applicants understand at the start of the process the availability status of property for which they are applying. To this end, the bill seeks to change the publication process to make clear that property which is published is both suitable *and available for application.* GAO, NGA and numerous advocates have noted the many problems associated with publishing property known only to be suitable. Under current program guidelines, HUD publishes property that is suitable, but not necessarily available for disposal for homeless uses. Thus, providers can apply for property listed in the Federal Register and lose out, even if their application is approved. S. 2886 requires that HUD publish property only when it is both suitable *and* available for application. The

Committee intends with this language to ensure, to the greatest extent possible pursuant to other applicable statutes, that providers who apply for property will in all likelihood get the property if their application is approved, *but should be aware that further screening must be done on the property, even as the application is proceeding.*

Thus, the Committee is sensitive to the possibility that there may be other uses which are "so meritorious and compelling" as to warrant overriding the homeless priority. Only in those instances and at the discretion of the GSA Administrator, the heads of other landholding agencies, or the Secretary of HHS would the property not be turned over. The standard thus established is meant to guarantee both the rights of successful applicants while upholding the legitimate property needs of the federal government and other public entities. Since this standard applies to surplus property, property which, when it was excess, was screened for other, compelling *federal* uses, the Committee intends that screening of surplus property for other *public* uses (as defined under section 203) also not be undermined. However, even with respect to this screening, the amendment requires that homeless uses be given priority consideration over any other 203 use, except in the rare instance when the Administrator or Secretary determines that the "so meritorious and compelling" test already mentioned is met. The Committee has also added language which requires that the Administrator or the Secretary report to Congress (the Governmental Affairs Committee in the Senate and the Government Operations Committee in the House) whenever either one invokes the "so meritorious and compelling" standard. The Committee intends that this standard be treated with the greatest seriousness and reserve and that it be applied only in circumstances where any reasonable person would conclude that homeless use does not deserve highest priority.

The bill also includes language which guarantees that property will be held for a given length of time to allow representatives of the homeless to express interest in applying for a property. The bill sets 45 days from initial publication as a period during which nothing may be done with a property. During those 45 days, if a written notice of intent is received to apply for a property, the property will be held until HHS completes action on the application, and, with respect to surplus property, no longer than 90 days after such written notice is submitted. By this requirement the Committee intends that surplus properties not be held indefinitely. The Committee has allowed for reasonable and limited extensions to be granted and fully expects that such extensions will be used when warranted. If a written notice of intent to apply for a property is received within the 45 day holding period after publication, the limit for holding the property is 90 days from the date such written notice is received. If such written notice is received after the 45 day holding period has expired, the property will not be used and could be disposed of for other purposes. The Committee is sensitive to concerns on the part of providers that the time limits allowed are short, especially given the some-time slowness of mail and the federal bureaucracy, as well as occasional difficulties in gathering information to properly complete an application. Applications sometimes

must be sent back to the applicant for correction or clarification. This can be a time-consuming process.

With respect to "written notice of intent" the Committee intends that any reasonable written notice of intent be sufficient to express interest in applying for a given property. However, the Committee is also aware that written notice of intent is sometimes received which proves not to be a serious representation of genuine interest in a particular property. Therefore, the Committee expects that such notice will include, at a minimum, the legal name of the entity intending to apply for the property, the statutory authority under which such application is made, and the purpose for which the property is needed.

3. Dissemination of information about suitable and available properties must be broadened—

The Committee's hearing on Title V held on July 19 reinforced the notion that one of the greatest problems with the program is lack of adequate notice of properties available for application. Discussions at the hearing centered around the inadequacy of using the Federal Register as the principal means to publicize such properties. The amendment does several things to address this problem:

First, it requires that the publication of property include a description and the location of the property, (including its address and zip code) as well as the current classification of the property. By this requirement the Committee intends that as much information as possible about the property's status be made available in the Register. Providers should know where and what such property is and should have some indication about the current status (as excess, surplus, unutilized or underutilized). The Committee also expects that publication will take place as frequently as is necessary to ensure the fullest possible publicity for suitable and available properties. If that means a weekly publication, the Committee expects HUD to publish weekly.

Second, that the Secretary make available upon request, regardless of the format it is in, all information about property reviewed as unsuitable. The Committee expects that in addition to providing this information upon request, the Secretary shall create a public file in its public reading rooms in which the same information provided in the Register is made available for public inspection.

Third, the Secretary must publish separately annually all suitable property which was reported as unavailable and the reason for such determinations. Again, the Committee expects that this separate list will provide the explanation for unavailability made by landholding agencies.

Fourth, the Secretary must transmit to the Interagency Council at the same time the list is published in the Federal Register a copy of the list. The Council is directed to distribute "area-relevant" portions of the list to state and regional coordinators. The Committee does not intend with this requirement to force the Council to send the whole list to every state—just those portions of the list which would be relevant for a specific region. The Council, HUD and GSA have all assured the Committee that every step possible will be taken to ensure the widest possible dissemination of information on the list. S. 2886 requires that this be done. The

Committee expects that publicizing these properties will include and not be limited to using major periodicals, daily newspapers, and other media.

Fifth, the Secretary must establish a toll-free "800" number to provide the public with specific information about properties on the list. The Committee expects that this number will serve the purpose of providing information more generally about properties, as well, even in the case of inquiries about property not necessarily published, but which may otherwise come to the attention of a potential applicant.

Sixth, the Secretary must republish annually all property which remains available from the preceding year and its current status and classification. By this requirement the Committee expects to ensure that properties once reported and not sought by representatives of the homeless, but which is still available, should be publicized again to allow the fullest possible opportunity for such property to be applied for.

4. Representatives of the homeless must be able to get deeds to the properties they are seeking.

An overriding concern of some witnesses at our hearing is the inability of successful applicants to acquire title to properties. Currently, successful applicants can get only a permit or lease for property. As Wendy Adler of the NGA pointed out in her testimony:

For some applicants, obtaining a deed can be critical to a project's success. Many providers have had difficulty obtaining the financing for projects because they can currently only obtain a short lease. States need to be able to obtain the financing necessary to construct, repair, and maintain these facilities. Currently, there is no provision to turn property over to a project permanently after it has been used for several years by the homeless. The Federal Government resumes possession when the lease expires. Also, when the providers lease has expired, the property and any permanent improvements made to it, such as rehabilitating a building, becomes the property of the federal government.

S. 2886 solves this problem by allowing for deeding of surplus property to successful applicants. It does so by amending Section 203 of the Property Act to make homeless use a public health benefit use (which has been done in regulation) and by authorizing the deeding of property under subsection k. The Committee expects that deeding will be done whenever possible, and, in any case, whenever the representative of the homeless has applied for the deed and has had his/her application approved (except where the "so meritorious and compelling" standard is invoked by the Administrator of GSA or Secretary of HHS.) The deeding language is meant to give representatives of the homeless the opportunity to decide whether or not they want to seek title to a specific property. It is not meant as a lesser alternative. The Committee fully expects that GSA and HHS shall act with equal promptness, and with no

special bias regardless of whether the applicant seeks a lease or deed for a given property.

The bill also includes a provision which allows representatives of the homeless currently holding leases on properties to request the deed to such properties under section 203(k). The Committee expects that current leaseholders may request title to properties now under lease and that HHS may grant such requests under 203(k). However, the Committee also expects that in cases where leases are already held, lease terms shall not be affected if deeding of the property is not agreed to by HHS. Thus, if a leaseholder fails in his attempt to acquire title, his lease will continue just as before.

The Committee believes that the four main issues discussed above will be substantively resolved by S. 2886.

The Committee is also sensitive to the concern, raised by HUD, that the existing suitability criteria are not adequate to discover many properties which may be deemed unsuitable by any reasonable person, but which, nevertheless, must be reviewed by HUD and possibly even published if such properties are actually available. Although S. 2886 does not require HUD to develop any new criteria or to modify existing criteria, the Committee's intent is that HUD utilize suitability criteria which will take into account such factors as accessibility. GAO made this point in our July 29 hearing. In making this statement, the Committee does not intend for HUD to narrowly interpret suitability to mean perfectly accessible. Only in those cases where property is patently unsuited for homeless purposes should HUD's criteria exclude it.

The last section of the bill requires that the General Accounting Office conduct a study of the methodology and procedures used by the Census Bureau in counting the number of homeless persons for the decennial census. The purpose of this provision is to have GAO look at the limitations in the Census Bureau's effort and to report on the effect of those limitations on the accuracy of the count. It is not meant as a requirement for GAO to undertake such an enumeration itself.

IV. LEGISLATIVE HISTORY

On July 19, 1990, the Committee on Governmental Affairs held an oversight hearing on the three McKinney Act programs under its jurisdiction. The hearing included the following witnesses:

Mr. John Ols, Director, Housing and Community Development Issues Resources, Community and Economic Division, General Accounting Office.

Ms. Patricia Carlile, Executive Director, Interagency Council on the Homeless. Accompanied by: James N. Forsberg, Department of Housing and Urban Development, and Kathi Martin, Department of Health and Human Services, and Majorie Lomax, General Services Administration.

Mr. Mark Talisman, Council of Jewish Federations, Member, National Board, Emergency Food and Shelter Program.

Mr. Greg Chappell, Federal Emergency Management Agency. Accompanied by: Walter C. French, Director of National Public Affairs Office, Salvation Army.

Mr. Bill Faith, Executive Director, Ohio Coalition for the Homeless.

Ms. Wendy C. Adler, National Governors Association.

Ms. Maria Foscarnis, National Law Center on Homelessness.

On July 25, 1990, the Committee met and marked up S. 2886, the Stewart B. McKinney Homeless Assistance Amendments of 1990. The measure passed by voice vote.

V. REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."

The enactment of this bill would have no new, significant regulatory impact on the public. To the extent that the bill requires promulgation of regulations within 60 days, it may be seen as forcing a new regulatory requirement on several government agencies. However, these agencies are currently in the midst of a regulatory update for Title V procedures and have been consulted in the formulation of this legislation. It is expected that S. 2886 tracks in many respects, the new, interagency regulation currently being reviewed by OMB.

The bill also sets forth several new requirements of HUD, HHS, and GSA in the Title V program. Once again, to the extent these new requirements force regulatory change, some impact may be observed. For example, new deadlines apply with respect to HUD suitability determinations and new procedures are established in the application process, which HHS will likely have to amend by regulation. The various publishing requirements should be able to be managed under existing regulatory frameworks, although entirely new publishing requirements, such as the republication of properties on a yearly basis, may engender some regulatory change.

VI. EFFECT ON CURRENT LAW

Paragraph 12 of rule XXVI of the Standing Rules of the Senate requires that all bills reported out of committee include a discussion of changes in existing law made by the bill. Such changes have already been discussed with respect to the Title V Surplus Property program. Two changes worthy of reiterating are as follows:

Amendment of Section 203(k)—to include homeless use by deed or lease as a 203(k) public health use. This provision changes the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 484(k)) to add a sub "5" to the current list of public health uses under 203(k).

Addition of Secretary of Veterans Affairs to the Interagency Council on the Homeless—amends 42 U.S.C. 11312(a)(15) to include the Secretary of Veterans Affairs on the Council.

Of course the first and second title reauthorize existing programs and so, to that extent, amend current law to extend these authorizations.

VII. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 15, 1990.

HON. JOHN GLENN,
Chairman, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2886, the Stewart B. McKinney Homeless Assistance Amendments of 1990, as ordered reported by the Senate Committee on Governmental Affairs on July 25, 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 2886
2. Bill title: Stewart B. McKinney Homeless Assistance Amendments of 1990.
3. Bill status: As ordered reported by the Senate Committee on Governmental Affairs on July 25, 1990.
4. Bill purpose: To amend the Stewart B. McKinney Homeless Assistance Act to clarify requirements regarding the use of unused, underused, surplus, and excess federal buildings and real property to assist the homeless, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Authorization Levels:					
Intragency Council on the Homeless	1.2	1.3	1.3		
Federal Emergency Management Food and Shelter Program	150.0	150.0	150.0		
Total Authorization Levels	151.2	151.3	151.3		
Estimated Outlays:					
Intragency Council on the Homeless	1.1	1.3	1.3	0.1	
Federal Emergency Management Food and Shelter Program	150.0	150.0	150.0		
Total Authorization Levels	151.1	151.3	151.3	0.1	

The costs of this bill fall within budget function 600.

Basis of Estimate

S. 2886 would authorize the appropriation of \$1.2 million in 1991 and \$1.3 million per year in 1992 and 1993 for the Interagency Council on the Homeless. The bill also would authorize \$150 million per year in 1991-1993 for the Federal Emergency Management Food and Shelter Program to assist homeless individuals.

S. 2886 also would change existing procedures for the use of surplus federal property by nonprofit groups that provide assistance to

the homeless. These changes include lengthening the time periods during which nonprofit groups can apply for surplus federal property, and providing more information on available properties. In addition, S. 2886 would authorize the federal government to transfer title of surplus federal buildings to nonprofit groups. Under current law, such groups may lease federal buildings for extended periods paying only nominal rent, while ownership of the buildings remains with the federal government. By transferring ownership to nonprofit groups, the federal government would forfeit the opportunity to sell the buildings at some future time. CBO does not anticipate that such buildings would be sold in the near future. Therefore, the proposed change would not affect the budget over the next few years. CBO estimates that the enactment of the other provisions affecting surplus property would result in no significant costs to the federal government.

This estimate assumes that all authorizations are fully appropriated at the beginning of each fiscal year. Outlays are estimated using spendout rates computed by CBO on the basis of recent program data.

6. Estimated cost to State and local government: None.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Karen Graham (226-2820) and Marta Morgan (226-2860).

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

VIII. CHANGES IN EXISTING LAW

Changes in existing law follow (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, and existing law in which no change is proposed is shown in roman):

SECTION 208. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to carry out this subchapter \$1,200,000 for fiscal year 1991, \$1,200,000 for fiscal year 1992 and \$1,200,000 for fiscal year 1993.

* * * * *

SECTION 322. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated to carry out this subchapter \$150,000,000 for fiscal year 1991, \$150,000,000 for fiscal year 1992, and \$150,000,000 for fiscal year 1993.

SECTION 202 (a) (15)

(a) Members

The Council shall be composed of the following members:

(1) The Secretary of Agriculture, or the designee of the Secretary.

(2) The Secretary of Commerce, or the designee of the Secretary.

(3) * * *

* * * * *

(15) *The Secretary of Veterans Affairs, or the designee of the Secretary.*

SECTION 501, 42 U.S.C. 11411

SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDING AND REAL PROPERTY TO ASSIST THE HOMELESS.

(a) **IDENTIFICATION OF SUITABLE PROPERTY.**—The Secretary of Housing and Urban Development shall, on a quarterly basis, collect information about Federal public buildings and other Federal real properties (including fixtures) that are excess or surplus or are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall provide such information to the Secretary. No later than 30 days after collecting such information, the Secretary shall identify which of those buildings and properties are suitable for use to assist the homeless.

(b) **AVAILABILITY OF PROPERTY.**—The Secretary shall immediately notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a) of this section. No later than 30 days after receipt of such a notice, the Administrator, with respect to excess property, or the appropriate head of the landholding agency, with respect to underutilized or unutilized property, shall transmit to the Secretary the agency's response which shall include—

(A) *in the case of underutilized or unutilized property—*

(i) *a statement of intention to declare the property excess to the agency's needs;*

(ii) *a statement of intention to make the property available for use to assist the homeless; or*

(iii) *a statement of the reasons the property cannot be declared excess property of the agency or made available for use to assist the homeless;*

(B) *in the case of excess property—*

(i) *a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or*

(ii) *a statement of the other compelling Federal need for the property and, therefore, the property is not presently available for use to assist the homeless.*

(2) *All surplus property determined suitable under subsection (a) shall be available for application for use to assist the homeless in accordance with the provisions of this section.*

(3) *The Secretary shall maintain a written public record of—*

(A) *the determinations of the Secretary and the reasons for such determinations under this subsection; and*

(B) *the responses of landholding agencies to such determinations.*

(c) **PUBLICATION OF PROPERTIES.**—(1)(A) *No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall publish in the Federal Register a list of all property reviewed by the Secretary, which shall include all suitable*

ble property that is available for application under subsection (b) for use to assist the homeless.

(B) Each publication of property shall include a description and location of the property (including the address and zipcode) and the current classification of such property.

(C) The Secretary shall make available upon request all information regardless of format about all property reviewed and determined to be unsuitable, including the reasons such properties were determined unsuitable.

(D) The Secretary shall publish separately, on an annual basis, all property determined to be suitable, but reported to be unavailable, and the reasons such properties were unavailable.

(2) No later than 15 days after the last day of the 30-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the complete list to the Interagency Council on the Homeless. The Council shall immediately distribute to all State and regional homeless coordinators are relevant portions of the list.

(3) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as necessary to ensure the widest possible dissemination of the information on such list.

(4) The Secretary shall establish a toll-free number to provide the public with specific information about property on the list.

(5) The Secretary shall make readily available to the public upon request all information regardless of format in the possession of the Department of Housing and Urban Development about the properties under this subsection, including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

(6)(A) On December 31 of each year, the head of each availability status of each property controlled by the agency, that—

(i) was included in a list published by the Secretary under paragraph (1)(A) (i); and

(ii) remains available for application for use as a facility to assist the homeless or has become available for application during the preceding year.

(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties under subparagraph (A) for the preceding year, and the current classification of such properties as excess, surplus, unutilized, or underutilized.

(d) **HOLDING PERIOD.**—(1) Properties published as suitable and available for application shall not be available for any other purpose for a period of 45 days beginning on the date of such publication.

(2) Once written notice of intent to apply for a property is received, within the 45-day period described under paragraph (1), for the utilization of any such property by representatives of the homeless, such property may not be made available for any other purpose, until the Secretary of Health and Human Services or other landholding agencies have completed action on the application.

(3) Excess, surplus, unutilized and underutilized properties determined unsuitable may not be made available for any other purpose for 15 days after the determination of unsuitability to allow for

review of the determination at the request of the representative of the homeless.

(4) Written notice of intent to apply for a property may also be filed at any time after the 45-day period described under paragraph (1) has expired. In such case the application shall be approved and the property assigned to the Secretary of Health and Human Services for disposal for us to assist the homeless, only if the property remains available. If the property remains available, the use to assist the homeless shall be given priority consideration over competing disposal opportunities under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) and the provisions of subsection (f)(3) shall apply."

(e) **USE OF PROPERTY TO ASSIST THE HOMESLESS.**—(1) Representatives of the homeless may submit an application to the Secretary of Health and Human Services for any property that is suitable and available for application included in a list published under subsection (c)(1)(A)(i), for use to assist the homeless.

(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the Administrator for surplus property and the head of the appropriate landholding agency for unutilized or underutilized property, grant reasonable extensions.

(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written record of all actions taken in response to an application.

(4) The Secretary, the Administrator, and the heads of landholding agencies shall immediately take such actions as may be necessary to make property immediately available to representatives of the homeless whose applications are approved by the Secretary of Health and Human Services under this paragraph.

(f) **MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.**—(1) Subject to the provisions of this subsection, properties for which the Secretary of Health and Human Services has approved applications for homeless use shall be made immediately available to representatives of the homeless.

(2) Unutilized or underutilized property shall be made immediately available by the appropriate landholding agency to the approved applicant by lease or permit, for a term of not less than 1 year, unless the applicant requests a shorter term.

(3)(A) In disposing of surplus property for deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority consideration to uses to assist the homeless under subsection (k)(5) of such section.

(B) Surplus property shall be made immediately available to the Secretary of Health and Human Services upon request of assignment for immediate provision to the approved applicant in accordance with section 203(k)(5) of such Act, unless the Administrator or the Secretary of Health and Human Services determines that a competing request under section 203 of such Act for the property is so

meritorious and compelling as to outweigh the needs of the homeless.

(c) Whenever the Administrator or the Secretary of Health and Human Services make a determination under subparagraph (B), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

(4) For properties made available by lease to representatives of the homeless prior to the date of enactment of the Stewart B. McKinney Homeless Assistance Amendments of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey by deed such property to the representative under section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

SECTION 203(k), 40 U.S.C. 484(k)

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(5) The Administration shall assign to the Secretary of Health and Human Services for disposal by lease or deed such surplus real property, including buildings and fixtures situated thereon, as is recommended by the Secretary of Health and Human Services as being needed for uses to assist the homeless. Notwithstanding any other provision of this subsection, all assignments and transfers of real property under this paragraph shall be in accordance with section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411).